

# **EXHIBIT BB**

1 VOLUME: I  
2 PAGES: 1 - 306  
3 EXHIBITS: Per index

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5  
6 UNITED STATES DISTRICT COURT  
7 FOR THE EASTERN DISTRICT OF TEXAS  
8 TYLER DIVISION

9  
10 C.A. No. 6:05-cv-424-LED-JDL

11  
12 ADVANCEME, INC., )  
13 Plaintiff )  
14 vs. )  
15 )  
16 RAPIDPAY LLC, BUSINESS CAPITAL )  
17 CORPORATION, FIRST FUNDS LLC, )  
18 MERCHANT MONEY TREE, INC., )  
19 REACH FINANCIAL, LLC and )  
20 FAST TRANSACT, INC. )  
21 d/b/a SIMPLE CASH, )  
22 Defendants )

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23 C.A. No. 6:06-cv-82-LED

24 ADVANCEME, INC., )  
25 Plaintiff )  
26 vs. )  
27 )  
28 AMERIMERCHANT, LLC, )  
29 Defendant. )

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30 VIDEOTAPED DEPOSITION

31 OF

32 THOMAS J. LITTLE, IV

33 WEDNESDAY, SEPTEMBER 6, 2006

1 Q. Did Little & Company ever attempt to keep its  
2 third-party payment procedures  
3 confidential?

4 MR. EDELMAN: Objection. Vague and  
5 ambiguous.

6 A. [Case 6:05-cv-00424-LED Document 235 Filed 04/13/2007 Page 3 of 6](#)  
7 During our sales process, when we found  
8 a merchant that could be benefitted by that,  
9 we talked about it.

10 Q. Were there any NDA's in place when you  
11 talked to these merchants about the  
12 arrangement?

13 MR. SMITH: Objection. Do you  
14 understand "NDA," non-disclosure agreement?

15 THE WITNESS: Sure.

16 A. Not that covered that, no.

17 Q. There was a lot of talk about  
18 confidentiality and how Little & Company  
19 provided enhanced confidentiality for  
20 particular pieces of information for its  
21 merchants.

22 A. Right.

23 Q. And could you just describe the scope of  
24 confidentiality you were discussing, if you  
25 understand that question?

26 A. Yes. Mail order -- catalogs, in particular,

1 have two major assets. One is their mailing  
2 list, which are the people that buy from  
3 them regularly, and the other is the history  
4 of how the mailing list and products and  
5 everything else worked. We had the mailing

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list information on our computer. We had

7 that information, so if we wanted to, we  
8 could take that information and rent it to  
9 competing catalogs. Now, catalogs normally  
10 render or exchange their list to people they  
11 control and they get the revenue from that.  
12 If we rendered and exchanged their mailing  
13 list and we took the revenue from that, in  
14 my view, that was tantamount to stealing  
15 from our customers. So we didn't do it.

16 There were companies that definitely did,  
17 CitiCorp being the primary example.

18 Q. The confidentiality provisions in Exhibit 4  
19 of the Member Agreement, did those  
20 confidentiality provisions apply only to  
21 those customers lists and the customer  
22 information that you've just described?

23 MR. EDELMAN: Objection. Calls for  
24 a legal interpretation.

25 A. I can't remember. I know we wouldn't

1 discuss one merchant's financial information  
2 with another merchant. So maybe it applied  
3 to that, too. I don't know. I'd have to  
4 review it, but the reason we put the part  
5 about confidentiality of data was, that was

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7 a positive sales point that we made to  
8 people we were trying to get to use us for  
merchant processing.

9 MR. EDELMAN: I believe your three  
10 and a half hours are up.

11 MR. GRAY: I believe, if the  
12 witness is okay, I just have a couple more  
13 minutes?

14 MR. SMITH: Sure. A couple more  
15 minutes.

16 Q. Going back to Little & Company's relationship  
17 with FNBL, did FNBL ever forward any money  
18 to a merchant or a third party without the  
19 express instructions from Little & Company to  
20 do so?

21 MR. EDELMAN: Objection. Calls for  
22 speculation. Vague and ambiguous.

23 MR. SMITH: Do you understand the  
24 question?

25 THE WITNESS: Yeah.

1 COMMONWEALTH OF MASSACHUSETTS

2 MIDDLESEX, SS.

3

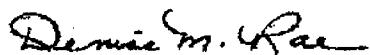
4 I, Denise M. Rae, a Certified

5 Case 6:05cv00424-HED Document 285 Filed 07/13/2007 Page 6 of 6  
Scribd.com Report by 25d Notary Public duly

6 commissioned and qualified within and for  
7 the Commonwealth of Massachusetts, do hereby  
8 certify:

9 That THOMAS J. LITTLE, IV, the  
10 witness whose deposition is hereinbefore set  
11 forth, was duly sworn by me, and that such  
12 deposition is a true record of the testimony  
13 given by the witness to the best of my  
14 skill, knowledge, and ability.

15 IN WITNESS WHEREOF, I have hereunto  
16 set my hand and my affixed notarial seal  
17 this 8th day of September, 2006.

18   
19

20 Denise M. Rae

21 Notary Public

22

23 My commission expires:

24 January 16, 2009

25